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May 28, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20054

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RECEIVED

MAY 28 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: MM Docket No. 96-54
RM-8769
Comments of Kellie K. Brown
FM Table of Allotments, Section 73.202(b)
Add Channel 268A, Ruidoso, NM

Dear Mr. Caton:

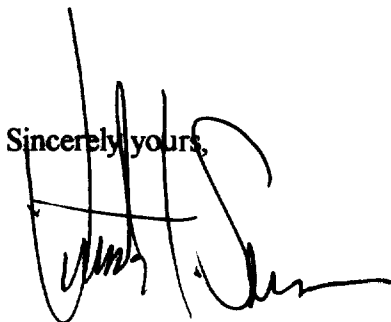
Transmitted herewith, on behalf of our client, Kellie K. Brown, are an original and four copies of her Reply Comments in support of the proposed rulemaking to modify the FM Table of allotments and add FM Channel 268A to the community of Ruidoso, New Mexico.

As a courtesy, a separate copy of the comments has been sent directly to Mr. John A. Karousos, Chief, Allocations Branch, Mass Media Bureau.

Comments or correspondence concerning these comments should be directed to Ms. Brown at the following address:

Kellie K. Brown
P.O. Box 4396
Ruidoso, NM 88345

Sincerely yours,



Timothy Z. Sawyer
Engineering Consultant to the petitioner

No. of Copies rec'd
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cc: Mr. John A. Karousos (courtesy copy)

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED

MAY 28 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	MM Docket No. 96-54
)	
Amendment of Section 73.202(b),)	RM-8769
Table of Allotments,)	
FM Broadcast Stations)	
(Ruidoso, New Mexico))	

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

REPLY COMMENTS of KELLIE K. BROWN

Kellie K. Brown (hereafter Petitioner), pursuant to Section 1.415 and 1.420 of the Commission's rules, hereby offers her reply comments on the proposed allotment of Channel 268A at Ruidoso, New Mexico. In support thereof, Petitioner respectfully states as follows:

1. Petitioner states that she has received comments in this rulemaking proceeding by MTD, Inc. ("MTD") and Norbert Fritz ("FRITZ") by their respective legal counsel. In response to the comments filed, she offers these reply comments.

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2. Petitioner and FRITZ have filed comments in support of the rulemaking, MTD opposes the rulemaking and offers a counterproposal to allot channel 268C as a first aural service to Cloudcroft, New Mexico.

3. The mutual exclusivity between the two proposals can be resolved by the allotment of Channel 240C to Cloudcroft, New Mexico. Channel 240C can be allotted to Cloudcroft without the imposition of a site restriction at the geographic coordinates specified in MTD's comments and counterproposal (North Latitude 32° 57' 30" and West Longitude 105° 44' 42").

4. MTD in its comments and counterproposal has indicated a desired transmitter site designated as the "Wofford Electronic Site"¹. The proposed allotment of Channel 240C could be implemented at MTD's preferred site in compliance with the Commission's minimum distance separation requirements.

5. In support of a Channel 240C allotment at Cloudcroft, thus allowing the Ruidoso Channel 268A proposal to go forward, petitioner submits as Exhibit #1 an Engineering Statement and FM Channel Study prepared by T.Z. Sawyer Technical

¹ The geographical coordinates of the "Wofford Electronics Site" as provided by MTD in its comments are: 32° 59' 15" North Latitude, 105° 42' 40" West Longitude.

Consultants, concerning the technical merits of an allotment of Channel 240C at Cloudcroft, New Mexico.

6. Therefore, petitioner proposes the following changes to the Commission's Table of FM Allotments:

	<u>Present</u>	<u>Proposed</u>
Ruidoso, New Mexico	228C3	228C3, 268A
Cloudcroft, New Mexico	---	240C

WHEREFORE, Petitioner urges the Commission to resolve this matter by the grant of the allotment of Channel 268A to Ruidoso, New Mexico and resolve the mutual exclusivity issue between the two communities by allotting Channel 240C at Cloudcroft, New Mexico.

Respectfully submitted,

Kellie K. Brown

May 22, 1996

Kellie K. Brown

Correspondence, Reply Comments, or Counter-Proposals to be directed to:

Kellie K. Brown
P.O. Box 4396
Ruidoso, New Mexico 88345

EXHIBIT #1

**ENGINEERING STATEMENT OF
T.Z. SAWYER TECHNICAL CONSULTANTS**

ENGINEERING STATEMENT
FM TABLE OF ALLOTMENTS
CHANNEL 240C
CLOUDCROFT, NEW MEXICO

Narrative

The technical exhibit of which this narrative is part was prepared on behalf of Kellie K. Brown, petitioner, in support of her reply comments in MM Docket No. 96-54 (RM-8769) concerning the allotment of Channel 268A at Ruidoso, New Mexico.

MTD, Inc. has advanced a counterproposal and arguments in favor of the allotment of Channel 268C at Cloudcroft, New Mexico as an alternative to the proposed allotment of Channel 268A at Ruidoso, New Mexico.

An alternate Class C FM channel exists that can be allotted to Cloudcroft, New Mexico. Channel 240C can be allotted to Cloudcroft at the geographical reference point for the community without the imposition of a site restriction.

Figure 1, contains a FM Channel Spacing Study in which a study of Channel 240C was conducted at the city reference point for Cloudcroft, New Mexico.¹ Channel 240C meets all required separation distances to all proposed allotments, and existing stations or applications for stations requiring study from this theoretical site.

¹ The reference point for Cloudcroft, New Mexico as listed in the "*National Atlas of The United States of America*" is 32° 57' 30" North Latitude, 105° 44' 42" West Longitude. (NAD1927).

In its counter-proposal, MTD, Inc. states that Cloudcroft is located within the boundaries of the Lincoln National Forest², and opines that because of the Lincoln National Forest a suitable site on privately held land may be difficult to acquire or lease for a proposed FM transmitter site. It offers that an established electronic site designated as the "Wofford Electronic Site" exists within the National Forest and that it might be a possible site for applicants. The geographical coordinates for the "Wofford" site as offered by MTD, Inc. are 32° 59' 15" North Latitude, 105° 42' 40" West Longitude (NAD1927).

Figure 2, contains a FM Channel Spacing Study in which a study of Channel 240C was conducted at the "Wofford" site's geographical coordinates. As can be seen from this figure, Channel 240C meets all separation distances to all proposed allotments, and existing stations or applications for stations requiring study from this theoretical site.

The proposed allocation of Channel 240C is within 320 kilometers of the United States/Mexico Border³, as such, concurrence from the Mexican government will be required.

Conclusion

The allotment to Cloudcroft, New Mexico of FM Channel 240C is a viable alternate channel to that of FM Channel 268C.

Kellie Brown has a suitable site selected, and a site certification that her proposed site is available to her in anticipation of the allotment of FM Channel 268A at Ruidoso, New Mexico, and is prepared to proceed with her application for a construction permit should Channel 268A be

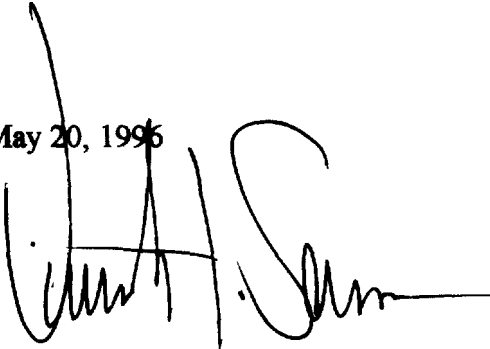
² Graham Brock, Inc. Technical Statement at 4.

³ The approximate distance from the proposed allocation point to the U.S./Mexico Border is 148 kilometers.

allotted to Ruidoso. We believe that it is in the public's interest to grant the allotment of FM Channel 268A to Ruidoso, and the alternate FM Channel of 240C to Cloudcroft, New Mexico, thus allowing both proposals to proceed in a timely manner.

Further information, if required, concerning the technical merits or methods employed in the preparation of this technical narrative may be obtained by contacting the office of the undersigned.

May 20, 1996

A handwritten signature in black ink, appearing to read 'Timothy Z. Sawyer', with a long horizontal line extending to the right.

Timothy Z. Sawyer
T.Z. Sawyer Technical Consultants
6204 Highland Drive
Chevy Chase, MD 20815
Tel.: (301) 913-9287
Internet E-mail address: tzsawyer@sawyer.com

Figure 1

FM CHANNEL SPACING STUDY

CHANNEL 240C

CLOUDCROFT, NEW MEXICO

T.Z. SAWYER TECHNICAL CONSULTANTS
Chevy Chase, MD

Job Title :CLOUDCROFT NEW MEXICO					Separation Buffer 64 km			
					FCC DB Date : 05/16/96			
Channel 240C (95.9 MHZ)					Coordinates : 32-57-30 105-44-42			
Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)

KLAQ	El Paso		238C	100.	31-47-47	208.4	146.34	105
LIC	TX	BLH7759	95.5	424.0	106-28-55		41.34	CLEAR
KPER	Hobbs		239C3	25.0	32-43-28	95.4	244.25	176
LIC	NM	BLH811118AM	95.7	78.0	103-09-03		68.25	CLEAR
Class C with respect to Mexico.								
	Ascencion		240C		31-05-34	226.3	296.73	290
	CH		95.9	.0	107-59-49		6.73	CLOSE
	Ventanas		240B		30-15-56	162.4	312.85	270
	CH		95.9	.0	104-45-37		42.85	CLEAR
KHEYFM	El Paso		242C	100.	31-47-47	208.4	146.34	105
LIC	TX	BLH7752	96.3	424.0	106-28-55		41.34	CLEAR
KEND	Roswell		293C1	52.0	33-23-05	63.2	106.44	41
LIC	NM	BLH900611KF	106.5	41.0	104-43-22		65.44	CLEAR

**** End of separation study for channel 240C ****

Figure 2**FM CHANNEL SPACING STUDY****CHANNEL 240C****CLOUDCROFT, NEW MEXICO**

T.Z. SAWYER TECHNICAL CONSULTANTS
Chevy Chase, MD

Job Title :WOFFORD ELECTRONIC SITE

Separation Buffer 64 km

FCC DB Date : 05/16/96

Channel 240C (95.9 MHZ)

Coordinates : 32-59-15 105-42-40


Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
KLAQ LIC	El Paso TX	BLH7759	238C 95.5	100. 424.0	31-47-47 106-28-55	208.9	150.70 45.70	105 CLEAR
KPER LIC	Hobbs NM	BLH811118AM	239C3 95.7	25.0 78.0	32-43-28 103-09-03	96.3	241.43 65.43	176 CLEAR
Class C with respect to Mexico.								
KSSRFM CP	Santa Rosa NM	BPH910311JB	240A 95.9	3.00 8.0	34-57-50 104-44-56	21.7	236.57 10.57	226 CLOSE
	Ascencion CH		240C 95.9	.0	31-05-34 107-59-49	226.3	301.26 11.26	290 CLOSE
	Ventanas CH		240B 95.9	.0	30-15-56 104-45-37	163.2	314.99 44.99	270 CLEAR
KHEYFM LIC	El Paso TX	BLH7752	242C 96.3	100. 424.0	31-47-47 106-28-55	208.9	150.70 45.70	105 CLEAR
KEND LIC	Roswell NM	BLH900611KF	293C1 106.5	52.0 41.0	33-23-05 104-43-22	64.1	102.17 61.17	41 CLEAR

**** End of separation study for channel 240C ****

Certification

I, Kellie K. Brown, certify that I am the petitioner in this proceeding and that I have read these comments prepared on my behalf. I believe the statements contained herein to be true and accurate to the best of my knowledge and belief.

May 22, 1996



Kellie K. Brown
P.O. Box 4396
Ruidoso, New Mexico 88345

I, Timothy Z. Sawyer, certify that I am the technical consultant for the petitioner in this proceeding and that I have prepared on Kellie K. Brown's behalf these comments and exhibits. I believe the facts and statements contained herein to be true and accurate.

I further certify that I have delivered a true and accurate copy(s) on Ms. Brown's behalf to :

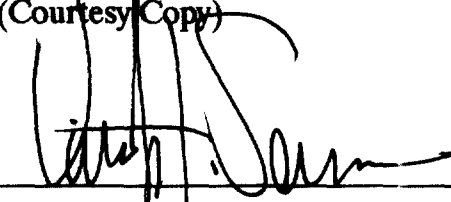
BY HAND (or as indicated) ON May 28, 1996

William F. Caton
Acting Secretary
Federal Communications Commission
Washington, D.C.
(Original & 4 copies)

Vincent J. Curtis, Jr., Esq.
Fletcher, Heald & Hildreth, P.L.C.
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Rosslyn, VA 22209
(Legal Counsel for FRITZ)
(U.S. Mail-1st Class postage prepaid)

John A. Karousos
Chief, Allocations Branch
Federal Communications Commission
Policy and Rules Division, Mass Media Bureau
Washington, D.C.
(Courtesy Copy)

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Timothy Z. Sawyer

5-28-96